

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

DAVID MICHAEL WALKER,

Plaintiff,

vs.

SUSAN L. GOLDIE, et al.,

Defendants.

:
:
:
:
:

Case No. 3:07cv281

JUDGE WALTER HERBERT RICE

DECISION AND ENTRY ADOPTING REPORT AND RECOMMENDATIONS
OF UNITED STATES MAGISTRATE JUDGE (DOC. #21) IN THEIR
ENTIRETY; PLAINTIFF'S OBJECTIONS TO SAID JUDICIAL FILING
(DOC. #22) OVERRULED; DEFENDANT GOLDIE'S MOTION FOR
JUDGMENT ON THE PLEADINGS (DOC. #9) AND DEFENDANT GREENE
COUNTY BOARD OF COMMISSIONERS FOR JUDGMENT ON THE
PLEADINGS (DOC. #14) BOTH SUSTAINED; JUDGMENT TO ENTER IN
FAVOR OF DEFENDANTS AND AGAINST PLAINTIFF, DISMISSING THE
CAPTIONED CAUSE, WITH PREJUDICE; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority contained in the Report and Recommendations of the United States Magistrate Judge, filed May 20, 2008 (Doc. #21), as well as upon a thorough *de novo* review of this Court's file and the applicable law, this Court adopts said Report and Recommendations in their entirety. The Plaintiff's Objections to said judicial filing (Doc. #22) are overruled. The Motion for Judgment on the Pleadings of Defendant Goldie (Doc. #9) and a similar Motion by Greene County Board of Commissioners (Doc. #14) are each

sustained in their entirety.

In ruling as aforesaid, this Court makes the following, non-exclusive, observations:

1. In this Court's opinion, it could not be clearer that Defendant Goldie is entitled to a dismissal with prejudice based upon absolute judicial immunity and on the statute of limitations, and that the Defendant Greene County is, likewise, entitled to dismissal of all federal and state claims against it, as barred by the applicable statute of limitations.

2. Much of the Magistrate Judge's Report and Recommendations, and, therefore, this Court's brief opinion adopting same, is based upon the lengthy procedural and substantive history of the Plaintiff's litigation efforts and, thus, constitute reference to matters outside the scope of the pleadings. Given the fact that a court is, under unanimous case law, allowed to rely upon documents outside the pleadings (in this instance, upon decisions of the Ohio Second District Court of Appeals), when those materials are directly at issue, given a fair reading of the allegations of the Complaint, taken as true, and additionally, the fact that the Court may consider public records and matters of which the court may take judicial notice, such as opinions of another court, and, finally, that the Plaintiff's Verified Complaint contains numerous references to the decisions of the appellate court, which formed a significant basis of his claims against the Defendants, any arguments that reference thereto by the Magistrate Judge and the undersigned

was improper, would be unavailing.

WHEREFORE, based upon the aforesaid, having adopted the Magistrate Judge's Report and Recommendations (Doc. #21) in their entirety and, further, having overruled the Plaintiff's Objections to said judicial filing (Doc. #22), this Court sustains the Defendants' Motions for Judgment on the Pleadings (Docs. #9 and #14) and directs that final judgment shall be entered in favor of the Defendants and against Plaintiff herein, dismissing the Plaintiff's claims and the captioned cause, with prejudice.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

September 26, 2008

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

F. Harrison Green, Esq.
Lynnette Ballato Dinkler, Esq.
Dawn M. Frick, Esq./Jeffrey C. Turner, Esq.